

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MICHAEL SCOTT
TDCJ-CID #683064

V.

CARLOS RODRIGUEZ

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C.A. NO. C-08-086

**ORDER DENYING PLAINTIFF'S MOTIONS
TO REINSTATE CASE AND FOR EXTENSION OF TIME
AND DISMISSING ACTION WITHOUT PREJUDICE**

By order entered September 8, 2008, the Court granted plaintiff's motion for reconsideration and vacated its earlier order and final judgment of dismissal. (D.E. 11). Plaintiff, a three-strikes litigant who has lost the privilege of proceeding *in forma pauperis* ("i.f.p."), was afforded twenty (20) days to move to reinstate his lawsuit, conditioned upon his simultaneous payment of the full \$350.00 filing fee for civil cases. Id.

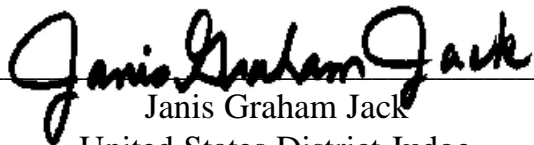
Within the twenty-day time frame, plaintiff has now moved to reinstate his lawsuit (D.E. 12), but, rather than pay the filing fee, he has sought an extension of time within which to pay the filing fee. (D.E. 13). For the reasons stated herein, plaintiff's motions are DENIED.

Under the Prisoner Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996), all prisoners must now pay the full civil filing fee. See 28 U.S.C. § 1915(b)(1) ("... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee."). The privilege of proceeding i.f.p. allows prisoners to file their lawsuits without an initial fee, and to pay the filing fee over time. 28 U.S.C. § 1915(b)(1). An inmate who loses the right to proceed i.f.p. necessarily losses the right to pay the fee over time.

In seeking an extension of time to pay the filing fee, plaintiff is actually asking to proceed i.f.p. As discussed in the magistrate judge's recommendation, plaintiff now is prohibited statutorily from proceeding i.f.p. because he has accumulated in excess of three strikes under 28 U.S.C. § 1915(g), and he failed to demonstrate that he was under imminent danger of serious physical injury. (See D.E. 5).

Accordingly, plaintiff's motion to reinstate his case (D.E. 12) and motion for extension of time (D.E. 13) are DENIED. Moreover, because plaintiff failed to pay the full filing fee when he moved to reinstate his case, the time to reinstate his case under the Court's September 8, 2008 order has run, and plaintiff's action is hereby dismissed without prejudice.

ORDERED this 2nd day of October, 2008.



Janis Graham Jack
United States District Judge